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**TRANSMITTAL
FORM**

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Total Number of Pages in This Submission

20

Application Number	10/756,970
Filing Date	January 13, 2004
First Named Inventor	Kevin T. Foley
Art Unit	3733
Examiner Name	Mary C. Hoffman
Attorney Docket Number	MSDI-223/PC444.06

ENCLOSURES (Check all that apply)

<input type="checkbox"/> Fee Transmittal Form <input type="checkbox"/> Fee Attached <input checked="" type="checkbox"/> Amendment/Reply <input checked="" type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s) <input type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input type="checkbox"/> Information Disclosure Statement <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Reply to Missing Parts/ Incomplete Application <input type="checkbox"/> Reply to Missing Parts under 37 CFR 1.52 or 1.53	<input type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-related Papers <input type="checkbox"/> Petition <input type="checkbox"/> Petition to Convert to a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CD(s) _____ <input type="checkbox"/> Landscape Table on CD	<input type="checkbox"/> After Allowance Communication to TC <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input checked="" type="checkbox"/> Other Enclosure(s) (please identify below): Return Receipt Postcard
Remarks		

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm Name	Krieg DeVault LLP		
Signature			
Printed name	Brad A. Schepers		
Date	February 20, 2009	Reg. No.	45,431

CERTIFICATE OF TRANSMISSION/MAILING

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Signature			
Typed or printed name	Brad A. Schepers	Date	February 20, 2009

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE



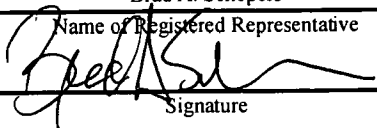
In re patent application of:)	Before the Examiner
Foley et al.)	Mary C. Hoffman
)	
Application Serial No. 10/756,970)	Group Art Unit 3733
)	
Filed January 13, 2004)	Ref. No. MSDI-223/
)	PC444.06
)	
SURGICAL INSTRUMENTATION AND)	February 20, 2009
METHOD FOR TREATMENT OF THE SPINE)	

RESPONSE TO FINAL OFFICE ACTION

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

In response to the final Office Action dated December 26, 2008, please enter and consider the following amendments and remarks. Additionally, please provide any extensions of time necessary and charge any additional fees which may be necessary to Deposit Account No. 12-2424, but not to include any payment of issue fees.

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INTRODUCTORY COMMENTS

Claims 55-63, 65-74 and 94-103 were pending in the subject application for the final Office Action dated December 26, 2008. Each of the pending claims currently stands rejected. In view of the following amendments and remarks, reconsideration and allowance of the subject application are hereby requested.